

2 ADRIENNE D. COHEN (SBN 145163)
3 (adc@adcohen.com)
4 SEAN R. FERRON (SBN 227856)
5 (srf@adcohen.com)
6 Law Offices of Adrienne D. Cohen
2677 N. Main Street, Suite 820
Santa Ana, California 92705
Tel: (714) 954-0790
Fax: (714) 954-0791

7 Attorneys for Defendants
Access Limousines & Coaches, Inc.; and
8 Maurice Maalouly

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 Aryan Enterprises, Inc.,) CV 10-3279 PA (JCx)
et al.)
12 Plaintiffs,) DECLARATION OF SEAN R. FERRON IN
v.) SUPPORT OF ALCI'S MOTION PURSUANT
13) TO F.R.CIV.P. RULE 11 FOR
Access Limousines &) SANCTIONS AGAINST PLAINTIFFS AND
14 Coaches, Inc.; et. al.,) PLAINTIFFS' COUNSEL
15 Defendants.)
16) March 28, 2011
17) 1:30 p.m.
) Honorable Percy Anderson

18 I, Sean R. Ferron, am counsel for Access Limousine &
19 Coaches, Inc. ("ALCI") in the above-captioned action, and
20 declare I have personal knowledge of the following facts:

22 1. Attached hereto as Exhibit 1 is a true and correct
23 copy of pages 14-15 of "DEFENDANTS' ANSWER; COUNTERCLAIM
24 PURSUANT TO 15 U.S.C. § 1119 FOR REASSIGNMENT OR CANCELLATION OF
25 U.S. TRADEMARK REGISTRATION NO. 3,725,114" [DE 14] filed in
26 this action, showing ALCI's only counterclaim.

2. Attached hereto as Exhibit 2 is a true and correct copy of "PLAINTIFFS' VERIFIED RESPONSE TO DEFENDANTS COUNTER-CLAIM" [DE 26].

3. Attached hereto as Exhibit 3 is a true and correct copy of pages 2-4 of Plaintiffs' Verified Complaint filed in this action.

4. Attached hereto as Exhibit 4 is a true and correct copy of an email sent December 18, 2010 from my co-counsel, Neal M. Cohen, to Plaintiffs' counsel, cc'd to me. As of January 5, 2011, Plaintiffs' counsel did not reply to the email to me. My co-counsel, Mr. Cohen, informed me that as of January 5, 2011, Plaintiffs' counsel did not reply to the email to him.

5. ALCI prepared and served the present Rule 11 motion on Plaintiffs on January 5, 2011.

6. My billing rate for this matter is \$175.00 per hour. My co-counsel, Mr. Cohen's, billing rate for this matter is \$295.00 per hour. He specializes in intellectual property law. To date I have billed 2.1 hours directly related to the underlying Rule 11 motion, and Mr. Cohen has billed 3.4 hours directly related to the underlying Rule 11 motion.

11

1

1
2 I declare under penalty of perjury that the foregoing is
3 true and correct.
4

5 February 22, 2011
6 DATED

/s/ Sean R. Ferron
Sean R. Ferron

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I served the foregoing document described as **DECLARATION OF SEAN R. FERRON IN SUPPORT OF ALCI'S MOTION PURSUANT TO F.R.CIV.P. RULE 11 FOR SANCTIONS AGAINST PLAINTIFFS AND PLAINTIFFS' COUNSEL** to all parties to this action as set forth below, on the date set forth below, in the manner(s) checked below.

- By the Court's ECF system.
- By mail service to their attorney(s) of record, at the address(es) set forth below.
- By e-mail service to their attorney(s) of record, at the following email address(es) set forth below.
- By fax service to their attorney(s) of record, at the fax number(s) set forth below.

Counsel for Aryan Enterprises; James Bond

Renee Daughetee (rdaughetee@hotmail.com)
THE DAUGHETEE LAW FIRM
18881 Von Karman Ave., 16th Floor
Irvine, CA 92612

Tel: (949) 608-0832
Fax: (949) 681-8065

Executed February 22, 2011, Santa Ana, California.

/s/ Sean R. Ferron
Sean R. Ferron

of these counterclaims is hereby incorporated by reference into each and every Count:

Jurisdiction and venue

138. This counterclaims arise under the United States
6 trademark laws, Title 15 of the United States Code. This Court
7 has jurisdiction over ALCI's counterclaims pursuant to 28 U.S.C.
8 §§ 1331 and 1338. Venue is proper in this District pursuant to
9 28 U.S.C. § 1391.

Parties

12 139. Plaintiff, Aryan Enterprises, Inc., dba Access
13 Limousine, is a California corporation residing in this
14 district.

16 140. Plaintiff, James Bond, is an individual residing in
17 this district.

18 141. Defendants reside in this district.

Count 1

Reassignment Or Cancellation of U.S. Trademark Registration No.
3,725,114 Pursuant to 15 U.S.C. § 119

142. U.S. Trademark Registration No. 3,725,114 is invalid.

23 143. U.S. Trademark Registration No. 3,725,114 was procured
24 by fraud on the Patent and Trademark Office.

144. The mark ACCESS LIMOUSINE does not have secondary meaning.

1
2 145. None of Plaintiffs are the true owners of the mark
3 ACCESS LIMOUSINE.

4 146. Plaintiffs have abandoned use of the mark ACCESS
5 LIMOUSINE.

6 147. Plaintiffs should not be able to enforce any rights in
7 the mark ACCESS LIMOUSINE due to waiver, estoppel, laches,
8 unclean hands, and/or acquiescence.

10 148. ALCI has refrained from use of the mark ACCESS
11 LIMOUSINE as a precautionary measure, due at least in part to
12 U.S. Trademark Registration No. 3,725,114 for the mark.

13 149. ALCI is the true owner of the mark ACCESS LIMOUSINE.

14 *****

15 WHEREFORE, Defendants, respectfully request judgment as
16 follows:

18 A. Plaintiffs be awarded nothing on their Complaint.
19 B. Judgment be entered in favor of Defendants on
20 Plaintiffs' Complaint.

21 C. Pursuant to 15 U.S.C. § 1119, the Court determine none
22 of Plaintiffs have any rights to U.S. Trademark Registration No.
23 3,725,114, ALCI is the true owner of the registration and of the
24 mark ACCESS LIMOUSINE, and the Court certify an Order directing
25 the Director of the Patent and Trademark Office to correct the
26 Office's records to reflect ALCI as the true owner of the
27 registration, or alternatively to cancel the registration.

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 1 of 9 Page ID #:189

1 **RENEE M DAUGHETEE, ESQ. SBN.:257018**
2 18881 Von Karman Avenue, 16th Floor
3 Irvine, California 92612
4 Telephone, (949) 608-0832
5 Facsimile, (949) 681-8065

6

7 Attorney for
8 PLAINTIFFS, ARYAN ENTERPRISES, INC.
9 d/b/a ACCESS LIMOUSINE and BOBBY BOND

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARYAN ENTERPRISES, INC., a) Case No.: CV 10-03279 PA (JCx)
California corporation, d/b/a ACCESS)
LIMOUSINE, and JAMES BOND a/k/a) Honorable Percy Anderson
BOBBY BOND, an individual,)
Plaintiffs,) **PLAINTIFFS' VERIFIED RESPONSE TO**
vs.) **DEFENDANTS COUNTER-CLAIM**
ACCESS LIMOUSINES & COUCHES,)
INC., a California corporation; and)
MAURICE MAALOULY, an individual,)
Defendants.)

ACCESS LIMOUSINES & COUCHES,)
INC., a California corporation; and)
MAURICE MAALOULY, an individual,)

Counterclaimant,)

vs.)
ARYAN ENTERPRISES, INC., a)
California corporation, d/b/a ACCESS)
LIMOUSINE, and JAMES BOND a/k/a)
BOBBY BOND, an individual,)

Counterclaim Defendants)

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 2 of 9 Page ID #:190

1
2 COME NOW COUNTER CLAIM DEFENDNATS ARYAN ENTERPRISES,
3 INC.'s, and JAMES BOND a/k/a BOBBY BOND, answering Defendants' Cross-complaint on
4 file herein, admit, deny, and allege as follows:

5

- 6 1. Answering the allegations of Paragraph 138 of the Counterclaim Defendants ADMIT
- 7 2. Answering the allegations of Paragraph 139 of the Counterclaim Defendants DENY.
- 8 3. Answering the allegations of Paragraph 140 of the Counterclaim Defendants DENY.
- 9 4. Answering the allegations of Paragraph 141 of the Counterclaim Defendants DENY.
- 10 5. Answering the allegations of Paragraph 142 of the Counterclaim Defendants DENY.
- 11 6. Answering the allegations of Paragraph 143 of the Counterclaim Defendants DENY.
- 12 7. Answering the allegations of Paragraph 144 of the Counterclaim Defendants DENY.
- 13 8. Answering the allegations of Paragraph 145 of the Counterclaim Defendants DENY.
- 14 9. Answering the allegations of Paragraph 146 of the Counterclaim Defendants DENY.
- 15 10. Answering the allegations of Paragraph 147 of the Counterclaim Defendants DENY
- 16 11. Answering the allegations of Paragraph 148 of the Counterclaim Defendants DENY.
- 17 12. Answering the allegations of Paragraph 149 of the Counterclaim Defendants DENY.

18
19 The answering Defendant alleges the following affirmative defenses:

20 FIRST AFFIRMATIVE DEFENSE

21 (Complaint is Uncertain and Insufficient to State Cause of Action)

22 1. As a first, separate and distinct affirmative defense to the Complaint and each purported
23 cause of action therein, this answering Defendant is informed and believes, and thereon alleges,
24 that the Complaint is so vague, ambiguous and uncertain as to fail to allege facts sufficient to
25 state a cause of action against this answering Defendant.

26 SECOND AFFIRMATIVE DEFENSE

27 (Statute of Limitations)

28 REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 3 of 9 Page ID #:191

2. As a second, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that the Complaint and each purported cause of action therein is barred by the applicable statute of limitations, including, but not limited to, Code of Civil Procedure §§ 338, 340, and 343.

THIRD AFFIRMATIVE DEFENSE

(Laches)

3. As a third, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant alleges that the Complaint is barred by the doctrine of laches in that Complainant's unreasonable delay in bringing this action to the prejudice of this answering Defendant.

FOURTH AFFIRMATIVE DEFENSE

(Real Party in Interest)

4. As a fourth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant alleges that Complainant is not the real party in interest. As such, Complainant lacks standing to bring this action against Defendant.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

5. As a fifth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that Complainant has failed to exercise reasonable care and diligence to avoid losses that could have been prevented by reasonable efforts on their part, or by expenditures that might have reasonably been made; and therefore, Complainant's recovery, if any, should be reduced by Complainant's failure to mitigate their damages.

SIXTH AFFIRMATIVE DEFENSE

(Unclean Hands)

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 4 of 9 Page ID #:192

6. As an sixth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant alleges that the Complaint and each cause of action therein is barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

(Doctrine of Estoppel)

7. As a seventh, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that the Complaint and each purported cause of action therein is barred by reason of acts, omissions, representations, and courses of conduct by Complainant, upon which Defendant was reasonably led to rely to its detriment, thereby barring, under the doctrine of equitable estoppel, any causes of action asserted by Complainant .

EIGHTH AFFIRMATIVE DEFENSE

(Waiver)

8. As a eighth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that the Complaint and each cause of action therein, is barred by the doctrine of waiver.

NINTH AFFIRMATIVE DEFENSE

(Failure/Lack of Consideration)

9. As a ninth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant alleges that the Complaint and each cause of action therein is barred by material failures and/or lack of consideration.

TENTH AFFIRMATIVE DEFENSE

(Complainant's Failure to Notify)

10. As a tenth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that the Complaint herein, and each and every purported cause of action contained therein, is

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 5 of 9 Page ID #:193

1 barred by reason of Complainant's failure to timely notify Defendant of any and all of the facts
2 and/or circumstances giving rise to each purported cause of action in the Complaint..

3 **ELEVENTH AFFIRMATIVE DEFENSE**

4 (Failure to Complete required Conditions)

5 11. As a eleventh, separate and distinct affirmative defense to the Complaint and each purported
6 cause of action therein, this answering Defendant is informed and believes, and thereon alleges,
7 that the Complaint is barred by due to the failure of the Complainant to complete the conditions
8 necessary for the Defendants to perform.

9 **TWELFTH AFFIRMATIVE DEFENSE**

10 (Liability Contractually Assumed by Others)

11 12. As a twelfth, separate and distinct affirmative defense to the Complaint and each purported
12 cause of action therein, this answering Defendant is not responsible for any of the damages
13 alleged in the Complaint, as any liability that may have existed on the part of this answering
14 Defendant has been contractually assumed by other persons and/or entities, including
15 Complainant.

16 **THIRTEENTH AFFIRMATIVE DEFENSE**

17 (Set Off)

18 13. As a thirteenth, separate and distinct affirmative defense to the Complaint and each
19 purported cause of action therein, this answering Defendant is informed and believes, and
20 thereon alleges, that it is entitled to set-offs as a result of any recovery, from any source,
21 including Complainant, for the damages and costs alleged.

22 **FOURTEENTH AFFIRMATIVE DEFENSE**

23 (Discharge of Obligation)

24 14. As a fourteenth, separate and distinct affirmative defense to the Complaint and each
25 purported cause of action therein, this answering Defendant alleges that any action against it is
26 barred based on a release and discharge of any obligations owed by Defendant.

27 **FIFTEENTH AFFIRMATIVE DEFENSE**

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 6 of 9 Page ID #:1941

(Discharge of Liability)

15. As a fifteenth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that the acts, omissions, representations, and courses of conduct by Complainant, including other persons and entities acting or purporting to act on behalf of Complainant, discharges this answering Defendant from any liability.

SIXTEENTH AFFIRMATIVE DEFENSE

(Modification)

16. As a sixteenth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes and thereon alleges that the contract in question, if any, was modified by parties, and that Complainant is barred from recovery on the unmodified original contract, if any, by reason of said modification.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Defense Costs)

17. As a seventeenth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant alleges that the Complaint filed by Complainant against this answering Defendant was brought without reasonable care and without a good faith belief that there was a justifiable controversy under the facts and the law which warranted the filing of the Complaint against this answering Defendant, and that Complainant should therefore be responsible for all of Defendant's necessary and reasonable defense costs, including attorney's fees, as more particularly set forth in California Code of Civil Procedure, Section 1038.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Express/Implied Consent)

18. As a eighteenth, separate and distinct affirmative defense to the Complaint and each purported cause of action therein, this answering Defendant is informed and believes, and thereon alleges, that the Complaint and each purported cause of action therein is barred by due to

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 7 of 9 Page ID #:195

1 Complainant's express and implied consent of Defendant's conduct as described in the
2 Complaint.

3 NINETEENTH AFFIRMATIVE DEFENSE

4 (Indispensable Party)

5 19. As a nineteenth, separate and distinct affirmative defense to the Complaint and each
6 purported cause of action therein, Defendants is informed and believes, and thereon alleges that
7 the Complaint and each cause of action therein is barred as a result of Complainant's failure to
8 name all necessary, indispensable, and proper parties.

9 TWENTIETH AFFIRMATIVE DEFENSE

10 (Other Parties Fault)

11 20. As a twentieth, separate and distinct affirmative defense to the Complaint and each
12 purported cause of action therein, Defendant is informed and believes, and thereon alleges that
13 any alleged damages and/or losses suffered by Complainant were caused by the wrongful
14 conduct, act or omissions of third parties which are not attributable to Defendants.

15 TWENTY-FIRST AFFIRMATIVE DEFENSE

16 (Reservation of Right)

17 21. As a twenty-first, separate and distinct affirmative defense to the Complaint and each
18 purported cause of action therein, Defendant reserves the right to assert such other defenses as
19 may become available during discovery in this action, and thus, reserves the right to amend its
20 Answer accordingly.

21 TWENTY-SECOND AFFIRMATIVE DEFENSE

22 (Statute of Frauds)

23 22. As a twenty-second, separate and distinct affirmative defense to the Complaint and each
24 purported cause of action therein, Defendant is informed and believes, and thereon alleges that
25 the Complaint and each cause of action therein is barred due to the Statute of Frauds.

26 WHEREFORE, the answering Defendant prays for judgment against Complainant on his
27 Complaint as follows:

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 8 of 9 Page ID #:196

- 1 1. That Complainant take nothing from the answering Defendant by way of
- 2 his Complaint on file herein;
- 3 2. That Judgment be entered in favor of the answering Defendants;
- 4 a. That the answering Defendants be awarded his costs of suit incurred
- 5 herein; and
- 6 3. For such other and further relief as the Court deems proper.

9 Dated: December 13, 2010

10 THE DAUGHETEE LAW FIRM

13 /S/ RENEE M. DAUGHETEE
14 RENEE M. DAUGHETEE,
15 ARYAN ENTERPRISES, INC., a California
16 corporation, d/b/a ACCESS LIMOUSINE, and
17 JAMES BOND a/k/a BOBBY BOND, an
18 individual

REQUEST FOR ADMISSIONS

Case 2:10-cv-03279-PA -JC Document 26 Filed 12/18/10 Page 9 of 9 Page ID #:197

1
2
3 VERIFICATION
4
5
6

7 I, JAMES BOND, am the Cross-Claimant Defendant in the above-entitled action. I have read the
8 foregoing documents and I know the contents thereof. The same is true of my own knowledge,
9 except as to those matters which are therein alleged on information and belief, and as to those
10 matters, I believe it to be true. I declare under penalty of perjury that the foregoing is true and
11 correct and that this declaration was executed at Irvine, California.
12

13
14 DATED: December 13, 2010
15

16
17 _____/s/ James Bond_____

18 JAMES BOND as individual and as
19 President of ARYAN ENTERPRISES,
20 INC., a California corporation, d/b/a
ACCESS LIMOUSINE.
21
22
23
24
25
26
27
28

REQUEST FOR ADMISSIONS

1 Defendant ACCESS LIMOUSINES & COACHES, a California corporation; MAURICE
2 MAALOULY, an individual; and DOES 1-50, inclusive, and alleges as follows:

3 **PRELIMINARY STATEMENT**

4 1. Plaintiffs ARYAN ENTERPRISES, INC., a California corporation, d/b/a ACCESS
5 LIMOUSINE, and JAMES BOND hereinafter referred to as his aka ("BOBBY BOND" or "MR.
6 BOND"), an individual, institute this action for actual damages, general damages, special
7 damages, punitive damages, injunctive relief, declaratory relief, attorney's fees, and the costs of
8 this action against Defendant ACCESS LIMOUSINES & COACHES, a California corporation;
9 MAURICE MAALOULY, an individual; and DOES 1-50, inclusive, and alleges as follows:

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction under section 39 of the Lanham Act, 15 U.S.C.
12 § 1121, and under 28 U.S.C. §§ 1331 and 1338. This Court has jurisdiction over Plaintiffs'
13 related state and common law claims pursuant to 28 U.S.C. §§ 1338, 1367, and the doctrine of
14 pendent jurisdiction.

15 3. This Court has personal jurisdiction over Defendants because Defendants reside in this
16 state, do business in this state, have committed tortious acts in this state, and have otherwise
17 established contacts with this state making the exercise of personal jurisdiction proper.

18 4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) and (2) because
19 Defendants reside in this District and/or a substantial part of the events or omissions giving rise
20 to the action occurred in this District.

21 **PARTIES**

22 Plaintiffs allege:

23 5. Plaintiff ARYAN ENTERPRISES, INC. d/b/a ACCESS LIMOUSINE ("ACCESS" or
24 collectively along with co-Plaintiffs BOBBY BOND, referred to as "Plaintiffs"), is now, and at
25 all times mentioned in this complaint, a corporation, organized under the laws of California, with
26 its principal executive office located in Trabuco Canyon in the County of Orange, California.

27 6. Plaintiff BOBBY BOND ("MR. BOND" or collectively along with co-Plaintiff ACCESS,
28 referred to as "Plaintiffs") is now, and at all times mentioned in this complaint, the President and

1 Chief Financial Officer of ACCESS and an individual domiciled in the County of Orange, in the
2 state of California.

3 7. Defendant ACCESS LIMOUSINES & COACHES, INC. (hereinafter, "Defendant
4 COACHES" or along with co-Defendants MAURICE MAALOULY and DOES 1-50, referred to
5 as "Defendants"), is now, and at all times mentioned in this complaint, a corporation, organized
6 under the laws of California, with its principal executive office located in Fountain Valley in the
7 County of Orange, California.

8 8. Defendant MAURICE MAALOULY (hereinafter, "MR. MAALOULY" or 'along with
9 co-Defendants COACHES and DOES 1-50, referred to as "Defendants"), is now, and at all times
10 mentioned in this complaint, the owner and President of Defendant COACHES and an individual
11 domiciled in the County of Orange, in the state of California.

12 9. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as
13 DOES 1-50, inclusive, and therefore sue these Defendants by such fictitious names. Plaintiffs
14 will amend this Complaint to allege their true names and capacities when ascertained. Plaintiffs
15 are informed, believe and based thereon allege that each of the fictitiously named Defendants is
16 responsible in some manner for the occurrences herein alleged, and that Plaintiffs' damages as
17 herein alleged were proximately caused by such Defendants.

18 10. Plaintiffs are informed, believe and based thereon allege that at all times herein
19 mentioned, Defendants, and each of them, were the agents, employees and employers of each
20 other, and doing the things hereinafter alleged, were acting within the course and scope of said
21 agency and employment with the consent and knowledge of each other.

22 11. Plaintiffs are informed, believes and based thereon alleges all known and unknown
23 Defendants and their employees and/or agents acted on behalf of, and for the benefit of, at the
24 direction of, and under the control of, each and every Defendants, known or unknown, and their
25 agents and/or employees, and each of them. Plaintiffs is informed and believes and on that basis
26 alleges that at all times herein mentioned, each of the known and unknown Defendants herein
27 was the agent, servant, and employee of each of the other Defendants herein, and was acting
28 within the scope of said agency and employment, representation, or alter ego relationship and

1 each Defendants has ratified, approved, agreed, or assented to be bound by the obligations,
2 representations and acts of its agents, representatives, brokers, or alter egos.

3 **FACTUAL ALLEGATIONS**

4 12. Plaintiffs ARYAN ENTERPRISES, INC., a California corporation, d/b/a ACCESS
5 LIMOUSINE (hereinafter, "ACCESS") is a provider of limousine services in the Southern
6 California area for clients throughout the United States, particularly in the County of Orange.

7 13. Plaintiff ACCESS has been established as a business in the limousine services industry
8 for approximately six (6) years. Plaintiff ACCESS maintains an on-line website, has a national
9 toll-free number, and has a local phone number in the County of Orange, California. Plaintiff
10 ACCESS has clients throughout the United States and, more particularly, clients in the Southern
11 California area of Orange County.

12 14. On December 15, 2009, ACCESS obtained a Trademark registration, Reg. No.
13 3,725,114, for the standard characters, "ACCESS LIMOUSINE" for the provision of limousine
14 services. (*See Exhibit "A."*) Plaintiffs' first use of the standard characters, "ACCESS
15 LIMOUSINE" was in November 1, 2004 and first use in commerce was also in November 1,
16 2004, as established by its recorded Fictitious Name Statement in the County of Los Angeles.
17 (*See Exhibit "B."*)

18 15. Plaintiff ACCESS also received its employment identification number (EIN) from the
19 Internal Revenue Service on or about May 23, 2008, identifying Plaintiff ACCESS and its
20 business accounts, tax returns, and documents to the federal government. (*See Exhibit "C."*)

21 16. Prior to receiving his Trademark registration certificate for ACCESS LIMOUSINES,
22 Plaintiff MR. BOND has been actively using, advertising, and marketing his later Trademarked
23 name, "ACCESS LIMOUSINE" on ACCESS'S website and advertisement materials as well as
24 to clients, contractors, employees, and government authorities. (*See Exhibits "C" and "D."*)

25 17. Since receiving the Trademark registration certificate, Plaintiffs continue to actively use,
26 advertise and market its Trademark "ACCESS LIMOUSINE" on-line via a website and on
27 advertisement materials as well as to clients, contractors, employees, and government authorities.

Sean Ferron

From: Neal Cohen [nmc@viplawgroup.com]
Sent: Saturday, December 18, 2010 8:08 PM
To: rdaughetee@hotmail.com
Cc: Sean Ferron; Adrienne Cohen
Subject: AEI et al. v ALCI et al. - Plaintiff's Reply to Counterclaim

Ms. Daughetee:

This evening I received ECF service of D.E. 26 titled "PLAINTIFFS' VERIFIED RESPONSE TO DEFENDANTS COUNTER-CLAIM." Please note the pleading is not verified, as there is no handwritten signature from the purported party verifying the pleading.

Also please note the pleading appears to be in violation of Rule 11 in several respects. While Defendants will prepare and serve a Rule 11 motion if necessary, I am emailing you now as a courtesy to allow you an opportunity to re-file the pleading and remove any statements that are Rule 11 violations. For example, the pleading denies paragraphs 139 and 140 of the Counterclaim, yet those same allegations are pleaded as facts in paragraphs 5 and 6 of the Complaint. Additionally, most if not all of the affirmative defenses pleaded are per se legally irrelevant to the counterclaim. There is also at least one affirmative defense (Statute of Limitations) that cannot possibly apply based on the facts pleaded in the Complaint, and there are many affirmative defenses for which there cannot possibly be any facts to support them.

Therefore, please provide a proposed amended pleading (more properly titled as a Reply to Counterclaim) for me to review and approve, in which case I will enter a Stipulation in which Defendants do not object to you filing same. Defendants will object to any amended responsive pleading filed without a Stipulation, as such would violate the FRCivP and Local Rules. Please provide the proposed Stipulation to me no later than end of business Wednesday December 22, 2010.

If you have any questions, please call me to discuss, or email me. My intent is for these issues to be resolved without resorting to a Rule 11 motion. However, if Defendants are required to resolve this through a Rule 11 motion, we will seek sanctions accordingly.

Sincerely,

Neal M. Cohen
Vista IP Law Group LLP
2040 Main Street, Suite 710
Irvine, California 92614
TEL: (949) 724-1849
FAX: (949) 625-8955
EMAIL: nmc@viplawgroup.com
<http://www.viplawgroup.com>

The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.